

ORIGINAL

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GARDEN CITY BOXING CLUB, INC., as
broadcast licensee of the September 18, 2004
De La Hoya/Hopkins program,

Plaintiff,
-against-

CARMEN BATISTA, individually and as
officer, director, shareholder and/or principal
of 3175 Fulton Restaurant Corp. d/b/a/ El
Gran Mar de Plata a/k/a El Gran Mar De Plata
Restaurant, and 3175 FULTON RESTAURANT
CORP. d/b/a EL GRAN MAR DE PLATA
a/k/a EL GRAN MAR DE PLATA
RESTAURANT,

Defendants.

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MEMORANDUM AND ORDER

Case No. 05-CV-1044 (FB) (MDG)

Appearances:

For the Plaintiff:

JULIE COHEN LONSTEIN, ESQ.
Lonstein Law Office, P.C.
1 Terrace Hill, Box 351
Ellenville, NY 12428

BLOCK, Senior District Judge:

On September 7, 2007 Magistrate Judge Go issued a Report and Recommendation ("R&R") recommending plaintiff be awarded \$38,730 against defendants jointly and severally, consisting of \$7,500 in statutory damages, \$30,000 in enhanced damages, \$750 in attorneys' fees and \$480 in costs. *See R&R at 15.* The R&R also stated that a copy was sent via overnight delivery to defendants and that "[a]ny objections must be filed . . . on or before September 24, 2007. Failure to file timely objections may waive the right to appeal the District Court's Order." *Id.* at 16. No objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

SO ORDERED.

/signed/
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
November 30, 2007